

UNITED STATES OF AMERICA )  
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 )  
 v. ) ORDER  
 )  
 KENYATTA BOPOPA JOMO )

Maclaren, 866 F.3d at 217-18 (citations omitted). The court has previously concluded that this standard applies to respondents committed under § 4243. See United States v. Mair, No. 5:99-MJ-210-BR, DE # 163 (E.D.N.C. Aug. 18, 2020).

The only factual basis respondent alleges in support of his motion is “more than 10 years have passed since the date of his last commitment hearing.” (Mot., DE # 110, at 1.) Based on the record, that allegation is true. However, without more, respondent has failed to state a claim for discharge. The motion fails to set forth any facts which, if true, would show that respondent’s release (or conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment) would no longer create a substantial risk of bodily injury to another or serious damage to the property of another. See 18 U.S.C. § 4243(f). In fact, the most recent information of record about defendant’s mental health suggests otherwise. (See 4/7/20 Annual Risk Assessment, DE # 109, at 35.) Because respondent has failed to plausibly state a claim for discharge, his concomitant request for appointment of an independent psychiatrist fails.

Respondent’s motion for a hearing is DENIED.

This 5 January 2021.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt  
Senior U.S. District Judge